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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,288	10/20/2003	Rita Slager	RS-101US	3153
24314	7590	03/22/2005	EXAMINER	
JANSSON, SHUPE & MUNGER, LTD 245 MAIN STREET RACINE, WI 53403			CAMPBELL, KELLY E	
			ART UNIT	PAPER NUMBER

3618

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/689,288	Applicant(s) SLAGER, RITA	
	Examiner Kelly E Campbell	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/22/03</u> . | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,6-7,9-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotz (US 3,044,577) in view of Loftis (US 3,361,437).

Lotz teaches a restraining device for preventing undesired motion of a shopping cart (10) having a frame, wheels and a horizontal surface, including:

a bracket (40) for fixed attachment to the frame;

a non-linear elongate arm (20) having a first end and a second end attached with respect to the bracket (40);

a pivot (26) located between bracket (40) and the elongate arm (20), see Figure 7-8;

a locking element including a weight (23) engaged by the application of foot pressure to releasably hold the elongate member in stationary position, see Column 3, lines 70-75;

wherein the cart has two forward wheels (14) and a forward portion between the wheel attachment points connecting the frame members (11) and wherein the pivot (26) is arranged to permit retraction of the arm (20) in a plane perpendicular to the forward portion, see Figure 1 and 2.

Lotz does not teach a non-slippery engagement surface.

Loftis teaches a manually applied brake system including an elongated arm (54) and a non-slippery engagement surface (56) attached with respect to a first end of the arm.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the extendable arm cart brake to include a non-slippery surface, to provide additional friction for further retaining the cart in a stationary position and minimizing the possibility of the cart brake slipping against the horizontal surface, out-of-control, for safety purposes.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron (US 4,417,746) in view of Muzynski (US 4,986,557) and Lotz (US 3,044,577).

Baron teaches a restraining device for preventing undesired motion of a vehicle having a frame, wheels and a horizontal surface, including:

- a bracket (2) for fixed attachment to the frame;

- an elongate arm (3) having a first end and a second end attached with respect to the bracket (2);

- a pivot (6) located between bracket (2) and the elongate arm (3), see Figure 3;

- a locking element (13) engaged by the application of foot pressure to releasably hold the elongate member in stationary position, see Column 3;

- and a restoring device (10) disposed between the elongate arm (3) and the frame (1), wherein should a user apply a sideways force or a force to the vehicle in an

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amount sufficient to release the locking mechanism, the vehicle will be released from the safety position.

Baron does not teach the kickstand usable for a shopping cart.

Lotz teaches the use of a kickstand for braking a shopping cart vehicle, see Figure 1;

wherein the cart has two forward wheels (14) and a forward portion between the wheel attachment points connecting the frame members (11) and wherein the pivot (26) is arranged to permit retraction of the arm (20) in a plane perpendicular to the forward portion, see Figure 1 and 2.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a kickstand on a shopping cart for allowing a user to manually secure the cart in a stable, stationary position, without bending over and to prevent the cart from rolling away from the user for safety purposes.

Baron modified by Lotz does not teach a non-slippery surface for the kickstand first end.

Muszynski teaches a manually applied brake system kick brake system including an elongated arm (12) and a non-slippery engagement surface (38) attached with respect to a first end of the arm, wherein the engagement surface is a friction pad,

an arm-length adjustment device (56,58);

and a rotation mechanism (46,48) between the first end and the pad (38) allowing rotation of the pad with respect to the arm of the kick brake (12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the extendable arm kickstand to include a non-slippery surface, to provide additional friction for further retaining the kickstand in a stationary position and minimizing the possibility of the cart brake slipping against the horizontal surface, out-of-control, for safety purposes.

Conclusion

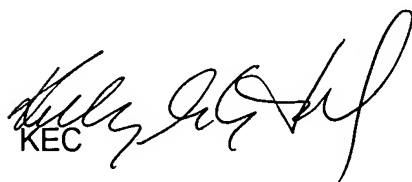
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Henderson teaches a kickstand brake for a vehicle. Watkins teaches a foot actuated shopping cart brake. Shipman et al teaches a kickstand brake. Close teaches a shopping cart brake. Johnson teaches a scooter brake. Doughty teaches a grocery store cart brake. Reed et al teaches a kickstand brake for a vehicle. .

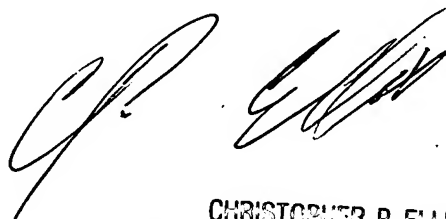
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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